

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

March 19, 2014

City Council Chambers

MEMBERS PRESENT: Bernie Bossio, Bill Burton, and George Papandreas

MEMBERS ABSENT: Leanne Cardoso, Jim Shaffer

STAFF: Christopher Fletcher, AICP

I. CALL TO ORDER AND ROLL CALL: Bossio called the meeting to order at 6:30 PM and read the standard explanation of the how the Board conducts business and rules for public comments.

II. MATTERS OF BUSINESS:

A. Minutes for the February 19, 2014 Hearing. Postponed due to a lack of quorum of members present during the February 19, 2014 hearing.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. V14-15 / Smitty's Kountry Kreme / 1137 Van Voorhis Road: Request by William Smith, on behalf of Smitty's Kountry Kreme, LLC, for variance relief from Article 1369 as it relates to signage at 1137 Van Voorhis Road; Tax Map 6, Parcel 43.1; B-1, Neighborhood Business District.

Fletcher read the Staff Report.

Bossio recognized the petitioner, William Smith of 1137 Van Voorhis Road who stated the sign has been in that location for over 30 years and is an icon to the area.

Bossio noted the sign would not be considered nonconforming and did not feel the Board could justify an approval for this variance.

Smith explained the sign would be similar to other back lit signs in the surrounding area but understands the uniqueness to the proposed sign.

Bossio noted the existing surrounding signs are considered non-conforming and have been grandfathered in, however the proposed signage would be treated as a new sign. Bossio asked Smith to explain what differentiates the proposed sign from others in the area.

Smith explained the marquee exists from the previous business and they do not wish to alter the shape but rather replace the face of the sign.

Burton asked if the sign could be made smaller but with same design as it would serve the same purpose. Fletcher explained that would still require variance but to a lesser extent of the petitioner's variance request. Bossio noted that other businesses would then want to construct comparable signs in the plaza.

Papandreas noted the sign should have been removed by the previous tenant and stated that if approved it would be treated as a new approval which would then cause other businesses wanting the same treatment for future signs. Papandreas did not feel that approving the sign would be consistent with what they have previously approved in the area.

Fletcher explained that a letter of notification to remove the sign was sent to the owner a few months ago. Smith explained that the owner, Cleve Biller, then approached him about utilizing the sign since it was already wired to his building.

Papandreas asked if the previous sign was a trademark sign. Smith explained that the previous panels were a trademark sign but not the shape of the sign.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed.

Fletcher read the Staff Recommendations.

The Board decided to review each of the Findings of Fact for V14-15 individually.

Papandreas made a motion to find in the negative for Finding of Fact No. 1; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – There are NOT exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The majority of the business establishments located within the Chelsea Square development have similar challenges to visibility from Van Voorhis Road as the petitioner's establishment.

Papandreas made a motion to find in the negative for Findings of Fact 2; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 2 – The variance is NOT necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There does not appear to be a permanent single-tenant ground sign similar to the petitioner's proposed sign within the immediate area.

Papandreas made a motion to find in the positive for Findings of Fact 3 as submitted by petitioner; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

No harm will be brought and the sign will be put back to its original use.

Papandreas made a motion to find in the positive for Findings of Fact 4 as submitted by the petitioner; seconded by Burton. Motion carried 2-1 with Bossio voting nay.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The sign has served the same purpose for 20+ years.

Papandreas moved to deny V14-15 based on the negative findings of fact approved by the Board; seconded by Burton. Motion carried unanimously.

Bossio reminded Mr. Smith that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

A. V14-16 / Beech View Place / 331 Beechurst Avenue: Request by Thomas Janidas, on behalf of Beech View Place, LLC, for variance relief from an approved Planned Unit Development Outline Plan relating to signage standards at 331 Beechurst Avenue; Tax Map 19, Parcel 28; PUD, Planned Unit Development District.

Fletcher read the Staff Report.

Bossio recognized Tom Janidas of 331 Beechurst Avenue who referred to a picture in the Staff report and stated the structure was missing the canopy illustration. With the up or down lighting, it is almost impossible on the building with the way it is currently erected. The sign company suggested to blacken out the top of the signs to prevent reflections into the above apartments, or they could do a smaller sign and be more vocal. Janidas distributed pictures to the Board of the proposed signage.

Bossio asked if the proposed signage included internal illumination. Janidas confirmed.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed.

Fletcher stated that no Staff recommendations were submitted.

Papandreas made a motion to find in the positive for the all the Findings of Facts as revised by Staff; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The zoning classification for the majority of the Beechurst Avenue mixed-use commercial corridor is B-2. Internally illuminated signage is permitted by-right in the B-2 District.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There appears to be a number of internally illuminated signs, which are permitted by-right in the B-2 District, within the Beechurst Avenue mixed-used commercial corridor.

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

Because internally illuminated signs exist and are permitted by-right within the B-2 District areas of the Beechurst Avenue corridor, it is not anticipated that internally illuminated signs with the “Beech View Place” development would result in a detriment to public welfare, properties, or improvements within the immediate area.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

Because internally illuminated signs exist and are permitted by-right within the B-2 District areas of the Beechurst Avenue corridor, it is not anticipated that internally illuminated signs with the “Beech View Place” development would diminish the quality, character, or value of the built environment within the immediate area.

Papandreas moved to approve V14-16 without conditions; seconded by Burton. Motion carried unanimously.

Bossio reminded Mr. Janidas that the Board’s decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

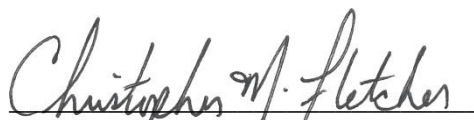
V. ANNOUNCEMENTS: None.

VI. ADJOURNMENT: 7:15 PM

MINUTES APPROVED:

April 30, 2014

BOARD SECRETARY:


Christopher M. Fletcher, AICP